HIGH COURT OF UTTARANCHAL AT NAINITAL

Criminal Misc. Application No. 503 of 2006

Shyam Sunder Jaiswal s/o late Sri Gopi Chand, R/o H-160, Nehru Colony, P.S. Dalanwala, Dehradun

..... Applicant

Versus

1. State of Uttaranchal
2. Dheeraj Kumar s/o Sri Om Prakash
   Village Lakhanwala, P.S. Sahaspur,
   District Dehradun

.....Respondents

Dated: 13.12.2006

Hon'ble Rajesh Tandon, J.

Heard Sri Ramji Srivastava counsel for the applicant and learned A.G.A. and Sri T.A. Khan for the respondents.

By the present application under section 482 Cr.P.C. the applicant has prayed for quashing of the proceedings of Criminal Case No. 13 of 2004, Dheeraj Kumar vs. Smt. Sapna Jaiswal under section 138 of Negotiable Instruments Act, pending in the Court of Judicial Magistrate, Dehradun.

Counsel for the applicant has submitted that no offence against the applicant is made out as the alleged cheque was not issued by the applicant. Counsel for the respondent Sri T.A. Khan has not disputed the fact that the cheque was not issued by the applicant. A perusal of the complaint and the order dated 13.1.2004 passed by the learned Magistrate shows that a cheque of Rs. 10,000/- has not been issued by the present applicant.

Section 138 of the Negotiable Instrument Act contemplates the action against the person who has issued the cheque and not against all the persons.

In view of above, application under section 482 Cr.P.C. is allowed. Proceedings in criminal case no. 13 of 2004, Dheeraj Kumar vs. Smt. Sapna Jaiswal and another, so far as it relates to the applicant are quashed.

Dated: 13.12.2006 **Rajesh Tandon, J.**

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